



Docket No.: 1086.1116

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hideki FUJINO.

Group Art Unit: 2123

Serial No. 09/577,593

Examiner: Ayal I. Sharon

Filed: May 25, 2000

For: OPTICAL PATH SIMULATION CAD SYSTEM AND METHOD

COMMENTS REGARDING STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

A Statement of Reasons for Allowance was forwarded to the applicants in a Notice of Allowability mailed September 13, 2004.

MPEP 1302.14 states, in part:

Where specific reasons are recorded by the examiner, care must be taken to ensure that statements of reasons for allowance (or indication of allowable subject matter) are accurate, precise and do not place unwarranted interpretations, whether broad or narrow upon the claims. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

The reasons for allowance set forth starting on page 2 of the Notice of Allowability include descriptions and characterizations of selected items of prior art (see pages 2, 3). It is submitted that such characterizations are not proper "reason for allowance" as directed by 37 C.F.R. §1.104 and as explained in M.P.E.P. §1302.14. In particular, a discussion of the prior art is specifically identified as Example (F) in M.P.E.P. §1302.14 of a statement which is not a suitable reason for allowance.

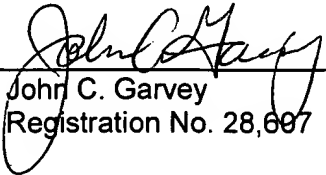
On page 3 of the statement, the Examiner characterizes certain features of identified claims which the Examiner states to be "distinct". It is submitted that the Examiner's statements are not accurate quotes with respect to each of the claims identified as corresponding to a particular statement. By way of example and not limitation, the claims do not include the term "stationary". It is further submitted that the claims speak for themselves and should not be interpreted based on the Examiner's characterization of same. It is submitted that the claims provide their own best evidence as to the reasons for allowance.

In summary, it is submitted that the Examiner's Statement "raises possible misinterpretations... and possible estoppel effects" (M.P.E.P. §1302.14 and is therefore improper.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10-21-04

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